

Senate Engrossed

State of Arizona  
Senate  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 61

# SENATE BILL 1019

AN ACT

AMENDING SECTIONS 43-222, 43-1021, 43-1022 AND 43-1121, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1090.01, 43-1177 AND 46-142, ARIZONA REVISED STATUTES; RELATING TO THE WHEELS TO WORK PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

Each year the joint legislative income tax credit review committee shall review the following income tax credits:

1. In 2002, sections 43-1076, 43-1077, 43-1078, 43-1079, 43-1080, 43-1165, 43-1166, 43-1167 and 43-1169.

2. In 2003, sections 43-1074.01, 43-1081, 43-1085, 43-1168, 43-1170, 43-1173 and 43-1178.

3. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

4. In 2005, sections 43-1087, 43-1088, ~~43-1090.01~~, AND 43-1175 and ~~43-1177~~.

5. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1176 and 43-1181.

Sec. 2. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those annuities with respect to which the first payment was received prior to December 31, 1978.

5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

6. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

1       7. The amount by which the adjusted basis of property described in  
2 this paragraph and computed pursuant to the internal revenue code exceeds the  
3 adjusted basis of such property computed pursuant to this title and the  
4 income tax act of 1954, as amended. This paragraph shall apply to all  
5 property which is held for the production of income and which is sold or  
6 otherwise disposed of during the taxable year, except depreciable property  
7 used in a trade or business.

8       8. The amount of depreciation or amortization of costs of any capital  
9 investment that is deducted pursuant to section 167 or 179 of the internal  
10 revenue code by a qualified defense contractor with respect to which an  
11 election is made to amortize pursuant to section 43-1024.

12       9. The amount of gain from the sale or other disposition of a capital  
13 investment which a qualified defense contractor has elected to amortize  
14 pursuant to section 43-1024.

15       10. The amount of depreciation or amortization of costs of child care  
16 facilities deducted pursuant to section 167 or 188 of the internal revenue  
17 code for which a credit is taken under section 43-1075, subsection A,  
18 paragraph 1.

19       11. Amounts withdrawn from the Arizona state retirement system, the  
20 corrections officer retirement plan, the public safety personnel retirement  
21 system, the elected officials' retirement plan or a county or city retirement  
22 plan by an employee upon termination of employment before retirement to the  
23 extent they were deducted in arriving at Arizona taxable income in any year.

24       12. That portion of the net operating loss included in federal adjusted  
25 gross income which has already been taken as a net operating loss for Arizona  
26 purposes or which is separately taken as a subtraction under the special net  
27 operating loss transition rule.

28       13. Any nonitemized amount deducted pursuant to section 170 of the  
29 internal revenue code representing contributions to an educational  
30 institution which denies admission, enrollment or board and room  
31 accommodations on the basis of race, color or ethnic background except those  
32 institutions primarily established for the education of American Indians.

33       14. The amount of depreciation or amortization of costs of recycling  
34 equipment deducted pursuant to the internal revenue code for which an  
35 election is made pursuant to section 43-1076.

36       15. The amount paid as taxes on property in this state with respect to  
37 which a credit is claimed under section 43-1078.

38       16. Amounts withdrawn from a medical savings account by the individual  
39 during the taxable year computed pursuant to section 220(f) of the internal  
40 revenue code and not included in federal adjusted gross income.

41       17. Any amount of agricultural water conservation expenses that were  
42 deducted pursuant to the internal revenue code for which a credit is claimed  
43 under section 43-1084.

44       18. The amount by which the depreciation or amortization computed under  
45 the internal revenue code with respect to property for which a credit was

1 taken under section 43-1080 exceeds the amount of depreciation or  
2 amortization computed pursuant to the internal revenue code on the Arizona  
3 adjusted basis of the property.

4 19. The amount by which the adjusted basis computed under the internal  
5 revenue code with respect to property for which a credit was claimed under  
6 section 43-1080 and which is sold or otherwise disposed of during the taxable  
7 year exceeds the adjusted basis of the property computed under section  
8 43-1080.

9 20. The amount by which the depreciation or amortization computed under  
10 the internal revenue code with respect to property for which a credit was  
11 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
12 depreciation or amortization computed pursuant to the internal revenue code  
13 on the Arizona adjusted basis of the property.

14 21. The amount by which the adjusted basis computed under the internal  
15 revenue code with respect to property for which a credit was claimed under  
16 either section 43-1081 or 43-1081.01 and which is sold or otherwise disposed  
17 of during the taxable year exceeds the adjusted basis of the property  
18 computed under section 43-1081 or 43-1081.01, as applicable.

19 22. The deduction referred to in section 1341(a)(4) of the internal  
20 revenue code for restoration of a substantial amount held under a claim of  
21 right.

22 23. The amount by which a net operating loss carryover or capital loss  
23 carryover allowable pursuant to section 1341(b)(5) of the internal revenue  
24 code exceeds the net operating loss carryover or capital loss carryover  
25 allowable pursuant to section 43-1029, subsection F.

26 24. Any amount deducted pursuant to section 170 of the internal revenue  
27 code representing contributions to a school tuition organization or a public  
28 school for which a credit is claimed under section 43-1089 or 43-1089.01.

29 25. Any amount deducted in computing Arizona gross income as expenses  
30 for installing solar stub outs or electric vehicle recharge outlets in this  
31 state with respect to which a credit is claimed pursuant to section 43-1090.

32 26. Any wage expenses deducted pursuant to the internal revenue code  
33 for which a credit is claimed under section 43-1087 and representing net  
34 increases in qualified employment positions for employment of temporary  
35 assistance for needy families recipients.

36 ~~27. Any amount deducted pursuant to section 170 of the internal revenue~~  
37 ~~code representing the contribution of a motor vehicle for which a credit is~~  
38 ~~claimed pursuant to section 43-1090.01.~~

39 ~~28.~~ 27. Any amount deducted for conveying ownership or development  
40 rights of property to an agricultural preservation district under section  
41 48-5702 for which a credit is claimed under section 43-1081.02.

42 ~~29.~~ 28. The amount of any special depreciation allowance allowed  
43 pursuant to section 168(k) of the internal revenue code.

1       Sec. 3. Section 43-1022, Arizona Revised Statutes, is amended to read:  
2       43-1022. Subtractions from Arizona gross income

3       In computing Arizona adjusted gross income, the following amounts shall  
4 be subtracted from Arizona gross income:

5       1. The amount of exemptions allowed by section 43-1023.

6       2. Benefits, annuities and pensions in an amount totaling not more  
7 than two thousand five hundred dollars received from one or more of the  
8 following:

9       (a) The United States government service retirement and disability  
10 fund, retired or retainer pay of the uniformed services of the United States,  
11 the United States foreign service retirement and disability system and any  
12 other retirement system or plan established by federal law.

13       (b) The Arizona state retirement system, the corrections officer  
14 retirement plan, the public safety personnel retirement system, the elected  
15 officials' retirement plan, an optional retirement program established by the  
16 Arizona board of regents under section 15-1628, an optional retirement  
17 program established by a community college district board under section  
18 15-1451 or a retirement plan established for employees of a county, city or  
19 town in this state.

20       3. A beneficiary's share of the fiduciary adjustment to the extent  
21 that the amount determined by section 43-1333 decreases the beneficiary's  
22 Arizona gross income.

23       4. The amount of any distributions from an individual retirement  
24 account as provided for in section 408 of the internal revenue code or from  
25 a qualified retirement plan of a self-employed individual as provided for in  
26 section 401 of the internal revenue code to the extent that total adjustments  
27 made pursuant to this paragraph in all tax years do not exceed the total of  
28 all contributions made by the taxpayer to such plans prior to December 31,  
29 1975, which were included in computing Arizona taxable income.

30       5. The amount of income on an installment receivable which is  
31 recognized pursuant to the internal revenue code and which has already been  
32 recognized on the death of the taxpayer for purposes of this title for tax  
33 years ending before January 1, 1990.

34       6. Interest income received on obligations of the United States, less  
35 any interest on indebtedness, or other related expenses, and deducted in  
36 arriving at Arizona gross income, which were incurred or continued to  
37 purchase or carry such obligations.

38       7. The amount of any income tax refunds which were received from  
39 states other than Arizona and which were included as income in computing  
40 federal adjusted gross income.

41       8. Annuity income included in federal adjusted gross income pursuant  
42 to section 72 of the internal revenue code if the first payment with respect  
43 to such annuity was received prior to December 31, 1978.

1       9. The excess of a partner's share of income required to be included  
2 under section 702(a)(8) of the internal revenue code over the income required  
3 to be included under chapter 14, article 2 of this title.

4       10. The excess of a partner's share of partnership losses determined  
5 pursuant to chapter 14, article 2 of this title over the losses allowable  
6 under section 702(a)(8) of the internal revenue code.

7       11. The amount by which the adjusted basis of property described in  
8 this paragraph and computed pursuant to this title and the income tax act of  
9 1954, as amended, exceeds the adjusted basis of such property computed  
10 pursuant to the internal revenue code. This paragraph shall apply to all  
11 property which is held for the production of income and which is sold or  
12 otherwise disposed of during the taxable year other than depreciable property  
13 used in a trade or business.

14       12. The amount allowed by section 43-1024 for amortization, by a  
15 qualified defense contractor certified by the department of commerce under  
16 section 41-1508, of a capital investment for private commercial activities.

17       13. The amount of gain included in federal adjusted gross income on the  
18 sale or other disposition of a capital investment that a qualified defense  
19 contractor has elected to amortize pursuant to section 43-1024.

20       14. The amount allowed by section 43-1025 for contributions during the  
21 taxable year of agricultural crops to charitable organizations.

22       15. The portion of any wages or salaries paid or incurred by the  
23 taxpayer for the taxable year that is equal to the amount of the federal work  
24 opportunity credit, the empowerment zone employment credit, the credit for  
25 employer paid social security taxes on employee cash tips and the Indian  
26 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
27 and 1396 of the internal revenue code.

28       16. The amount of prizes or winnings less than five thousand dollars  
29 in a single taxable year from any of the state lotteries established and  
30 operated pursuant to title 5, chapter 5, article 1, except that all such  
31 winnings before March 22, 1983, including periodic distributions from such  
32 winnings made after March 22, 1983, may be subtracted.

33       17. The amount of exploration expenses that is determined pursuant to  
34 section 617 of the internal revenue code, that has been deferred in a taxable  
35 year ending before January 1, 1990 and for which a subtraction has not  
36 previously been made. The subtraction shall be made on a ratable basis as  
37 the units of produced ores or minerals discovered or explored as a result of  
38 this exploration are sold.

39       18. The amount included in federal adjusted gross income pursuant to  
40 section 86 of the internal revenue code, relating to taxation of social  
41 security and railroad retirement benefits.

42       19. To the extent not already excluded from Arizona gross income under  
43 section 112 of the internal revenue code, compensation received for active  
44 service as a member of the armed forces of the United States for any month  
45 during any part of which the member served in a combat zone as determined

1 under section 112 of the internal revenue code or in an area given the same  
2 treatment as a combat zone for purposes of section 112 of the internal  
3 revenue code.

4 20. The amount of unreimbursed medical and hospital costs, adoption  
5 counseling, legal and agency fees and other nonrecurring costs of adoption  
6 not to exceed three thousand dollars. In the case of a husband and wife who  
7 file separate returns, the subtraction may be taken by either taxpayer or may  
8 be divided between them, but the total subtractions allowed both husband and  
9 wife shall not exceed three thousand dollars. The subtraction under this  
10 paragraph may be taken for the costs that are described in this paragraph and  
11 that are incurred in prior years, but the subtraction may be taken only in  
12 the year during which the final adoption order is granted.

13 21. The amount authorized by section 43-1027 for the taxable year  
14 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

15 22. With respect to a medical savings account established pursuant to  
16 section 43-1028:

17 (a) An eligible individual may subtract:

18 (i) The amount of contributions made by the individual's employer  
19 during the taxable year to the individual's medical savings account pursuant  
20 to section 43-1028 to the extent that the employer contributions are included  
21 in the individual's federal adjusted gross income.

22 (ii) The amount deposited by the individual in the account during the  
23 taxable year to the extent that the individual's contributions are included  
24 in the individual's federal adjusted gross income.

25 (b) The individual's employer may subtract the amount of contributions  
26 made by the employer to a medical savings account established on the  
27 individual's behalf to the extent that the contributions are not deductible  
28 under the internal revenue code.

29 23. The amount by which a net operating loss carryover or capital loss  
30 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
31 operating loss carryover or capital loss carryover allowable pursuant to  
32 section 1341(b)(5) of the internal revenue code.

33 24. Any amount of qualified educational expenses that is distributed  
34 from a qualified state tuition program determined pursuant to section 529 of  
35 the internal revenue code and that is included in income in computing federal  
36 adjusted gross income.

37 25. Any item of income resulting from an installment sale that has been  
38 properly subjected to income tax in another state in a previous taxable year  
39 and that is included in Arizona gross income in the current taxable year.

40 26. The amount authorized by section 43-1030 relating to holocaust  
41 survivors.

42 27. The amount authorized by section 43-1031 for constructing an energy  
43 efficient residence.

1       28. With respect to property for which the depreciation allowance  
2 pursuant to section 168(k) of the internal revenue code was added under  
3 section 43-1021, paragraph 29 28, an amount equal to three-sevenths of the  
4 amount of depreciation allowed pursuant to section 167(a) of the internal  
5 revenue code as computed on the adjusted basis provided pursuant to section  
6 168(k)(1)(B) of the internal revenue code.

7       29. With respect to property that is sold or otherwise disposed of  
8 during the taxable year by a taxpayer that complied with section 43-1021,  
9 paragraph 29 28 with respect to that property, the amount of depreciation  
10 that would have been allowed pursuant to section 167(a) of the internal  
11 revenue code computed without regard to section 168(k) of the internal  
12 revenue code to the extent that the amount has not already reduced Arizona  
13 taxable income in the current or prior taxable years.

14       Sec. 4. Section 43-1121, Arizona Revised Statutes, is amended to read:  
15       43-1121. Additions to Arizona gross income; corporations

16       In computing Arizona taxable income for a corporation, the following  
17 amounts shall be added to Arizona gross income:

18       1. The amounts computed pursuant to section 43-1021, paragraphs 3  
19 through 9, 13 and 29 28.

20       2. The amount of dividend income received from corporations and  
21 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
22 revenue code.

23       3. Taxes which are based on income paid to states, local governments  
24 or foreign governments and which were deducted in computing federal taxable  
25 income.

26       4. Expenses and interest relating to tax-exempt income on indebtedness  
27 incurred or continued to purchase or carry obligations the interest on which  
28 is wholly exempt from the tax imposed by this title. Financial institutions,  
29 as defined in section 6-101, shall be governed by section 43-961, paragraph  
30 2.

31       5. Commissions, rentals and other amounts paid or accrued to a  
32 domestic international sales corporation controlled by the payor corporation  
33 if the domestic international sales corporation is not required to report its  
34 taxable income to this state because its income is not derived from or  
35 attributable to sources within this state. If the domestic international  
36 sales corporation is subject to article 4 of this chapter, the department  
37 shall prescribe by rule the method of determining the portion of the  
38 commissions, rentals and other amounts which are paid or accrued to the  
39 controlled domestic international sales corporation and which shall be  
40 deducted by the payor. "Control" for purposes of this paragraph means direct  
41 or indirect ownership or control of fifty per cent or more of the voting  
42 stock of the domestic international sales corporation by the payor  
43 corporation.



1           6. Federal income tax refunds received during the taxable year to the  
2 extent they were deducted in arriving at Arizona taxable income in a previous  
3 year.

4           7. The amount of net operating loss taken pursuant to section 172 of  
5 the internal revenue code.

6           8. The amount of exploration expenses determined pursuant to section  
7 617 of the internal revenue code to the extent that they exceed seventy-five  
8 thousand dollars and to the extent that the election is made to defer those  
9 expenses not in excess of seventy-five thousand dollars.

10          9. Amortization of costs incurred to install pollution control devices  
11 and deducted pursuant to the internal revenue code or the amount of deduction  
12 for depreciation taken pursuant to the internal revenue code on pollution  
13 control devices for which an election is made pursuant to section 43-1129.

14          10. The amount of depreciation or amortization of costs of child care  
15 facilities deducted pursuant to section 167 or 188 of the internal revenue  
16 code for which an election is made to amortize pursuant to section 43-1130.

17          11. Arizona state income tax refunds received, to the extent the amount  
18 of the refunds is not already included in Arizona gross income, if a tax  
19 benefit was derived by deduction of this amount in a prior year.

20          12. The amount paid as taxes on property in this state by a qualified  
21 defense contractor with respect to which a credit is claimed under section  
22 43-1166.

23          13. The loss of an insurance company that is exempt under section  
24 43-1201 to the extent that it is included in computing Arizona gross income  
25 on a consolidated return pursuant to section 43-947.

26          14. The amount by which the depreciation or amortization computed under  
27 the internal revenue code with respect to property for which a credit was  
28 taken under section 43-1169 exceeds the amount of depreciation or  
29 amortization computed pursuant to the internal revenue code on the Arizona  
30 adjusted basis of the property.

31          15. The amount by which the adjusted basis computed under the internal  
32 revenue code with respect to property for which a credit was claimed under  
33 section 43-1169 and which is sold or otherwise disposed of during the taxable  
34 year exceeds the adjusted basis of the property computed under section  
35 43-1169.

36          16. The amount by which the depreciation or amortization computed under  
37 the internal revenue code with respect to property for which a credit was  
38 taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
39 depreciation or amortization computed pursuant to the internal revenue code  
40 on the Arizona adjusted basis of the property.

41          17. The amount by which the adjusted basis computed under the internal  
42 revenue code with respect to property for which a credit was claimed under  
43 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed  
44 of during the taxable year exceeds the adjusted basis of the property  
45 computed under section 43-1170 or 43-1170.01, as applicable.

1 18. The deduction referred to in section 1341(a)(4) of the internal  
2 revenue code for restoration of a substantial amount held under a claim of  
3 right.

4 19. The amount by which a capital loss carryover allowable pursuant to  
5 section 1341(b)(5) of the internal revenue code exceeds the capital loss  
6 carryover allowable pursuant to section 43-1130.01, subsection F.

7 20. Any amount deducted in computing Arizona taxable income as expenses  
8 for installing solar stub outs or electric vehicle recharge outlets in this  
9 state with respect to which a credit is claimed pursuant to section 43-1176.

10 21. Any wage expenses deducted pursuant to the internal revenue code  
11 for which a credit is claimed under section 43-1175 and representing net  
12 increases in qualified employment positions for employment of temporary  
13 assistance for needy families recipients.

14 22. Any amount of expenses that were deducted pursuant to the internal  
15 revenue code and for which a credit is claimed under section 43-1178.

16 ~~23. Any amount deducted pursuant to section 170 of the internal revenue~~  
17 ~~code representing the contribution of a motor vehicle for which a credit is~~  
18 ~~claimed pursuant to section 43-1177.~~

19 ~~24.~~ 23. Any amount deducted for conveying ownership or development  
20 rights of property to an agricultural preservation district under section  
21 48-5702 for which a credit is claimed under section 43-1180.

22 ~~25.~~ 24. The amount of any deduction that is claimed in computing  
23 Arizona gross income and that represents a donation of a school site for  
24 which a credit is claimed under section 43-1181.

25 Sec. 5. Repeal

26 Sections 43-1090.01, 43-1177 and 46-142, Arizona Revised Statutes, are  
27 repealed.

APPROVED BY THE GOVERNOR APRIL 14, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2003.

Passed the House April 8, 2003

by the following vote: 53 Ayes,

2 Nays, 5 Not Voting

Jake Flake  
Speaker of the House  
Cheryl Laube  
Asst. Chief Clerk of the House

Passed the Senate February 11, 2003

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Blumenthal  
President of the Senate  
Charmian Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of April, 2003

at 2:50 o'clock P. M.

Dandra Camirey  
Secretary to the Governor

Approved this 14 day of

April, 2003

at 8:55 o'clock A. M.

J. J. Arpaio  
Governor of Arizona

S.B. 1019

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of April, 2003

at 10:55 o'clock A. M.

Janice K. Brewer  
Secretary of State